

ARTICLE 1.

GENERAL PROVISIONS.

§ 34-21-1. Definitions.

For purposes of this chapter, the following terms shall have the respective meanings ascribed by this section:

- (1) **BOARD.** The board of nursing created hereunder.
- (2) **ADVISORY COUNCILS.** Advisory councils provided for under the terms of this chapter.
- (3) **PRACTICE OF PROFESSIONAL AND PRACTICAL NURSING.** Nursing is a profession the practice of which is defined as:
 - a. **PRACTICE OF PROFESSIONAL NURSING.** The performance, for compensation, of any act in the care and counseling of persons or in the promotion and maintenance of health and prevention of illness and injury based upon the nursing process which includes systematic data gathering, assessment, appropriate nursing judgment and evaluation of human responses to actual or potential health problems through such services as case finding, health teaching, health counseling; provision of care supportive to or restorative of life and well-being; and executing medical regimens including administering medications and treatments prescribed by a licensed or otherwise legally authorized physician or dentist. A nursing regimen shall be consistent with and shall not vary any existing medical regimen. Additional acts requiring appropriate education and training designed to maintain access to a level of health care for the consumer may be performed under emergency or other conditions which are recognized by the nursing and medical professions as proper to be performed by a registered nurse.
 - b. **PRACTICE OF PRACTICAL NURSING.** The performance, for compensation, of acts designed to promote and maintain health, prevent illness and injury and provide care utilizing standardized procedures and the nursing process, including administering medications and treatments, under the direction of a licensed professional nurse or a licensed or otherwise legally authorized physician or dentist. Such practice requires basic knowledge of the biological, physical and behavioral sciences and of nursing skills but does not require the substantial specialized skill, independent judgment and knowledge required in the practice of professional nursing. Additional acts requiring appropriate education and training may be performed under emergency or other conditions which are recognized by the nursing and medical professions as proper to be performed by a licensed practical nurse.
- (4) **LICENSED PROFESSIONAL NURSE.** A person who is currently licensed to practice professional nursing.
- (5) **LICENSED PRACTICAL NURSE.** A person who is currently licensed to practice practical nursing. (Acts 1965, No. 867, p. 1615, § 2; Acts 1975, No. 427, p. 1024, § 1; Acts 1983, No. 83-642, p. 989, § 1.)

§ 34-21-2. Board of nursing generally.

- (a) There is hereby created the board of nursing, which shall be composed of 13

members to be appointed as hereinafter provided for, which shall have the duties and powers hereinafter enumerated. In order to insure continuity of administration, the nine board members provided for by section 3 of Act No. 427, regular session 1975, shall continue to serve to the completion of the term for which they are serving. The governor shall within 60 days of January 1, 1984, appoint a tenth member who shall be a licensed practical nurse for a term of four years from a list of nominees furnished him by the Alabama Federation of Licensed Practical Nurses, Incorporated as hereinafter provided. As the terms of all board members expire, their successors shall be appointed for terms of four years each. Vacancies in unexpired terms shall be filled in the same manner as original appointments are made. No member shall be appointed to more than two consecutive terms of four years each. Eight members of the board shall be licensed professional nurses, and four members of the board shall be licensed practical nurses. The governor shall appoint the members of the board who are licensed professional nurses from a list of nominees who are selected by the Board of Nursing Nomination Committee and furnished to the governor by the Alabama State Nurses' Association, and such list, when furnished, shall contain at least twice the number of nominees as there are appointments to be made or vacancies to be filled. The Alabama State Nurses' Association shall on or before December 1 of each year, or at such other times as necessary, furnish the governor with a list of licensed professional nurses qualified for appointment to the board. In the nominating and appointing process, due care will be taken to ensure the maintenance of qualified representation from the fields of nursing education, nursing administration, clinical nursing, and advanced practice nursing. The governor shall appoint two of the members of the board who are to be licensed practical nurses from a list of nominees furnished him by the board of directors of the Licensed Practical Nurses Association of Alabama, and such list, when furnished, shall contain at least twice the number of nominees for the vacancies to be filled. The board of directors of the Licensed Practical Nurses Association of Alabama, shall on or before December 1 of each year in which the term of office of a board member or a nominee of said board of directors shall expire or at such other time as necessary, furnish the governor with such list of licensed practical nurses qualified for appointment to the board. The governor shall appoint two members on the board who are to be licensed practical nurses from a list of nominees furnished him by the board of directors of the Alabama Federation of Licensed Practical Nurses, Incorporated, and such list, when furnished, shall contain at least twice the number of nominees for the vacancies to be filled. The board of directors of the Alabama Federation of Licensed Practical Nurses, Incorporated, shall on or before December 1 of each year in which the term of office of the board member filled by the nominee of such board of directors shall expire, or at such other times as necessary, furnish the governor with a list of licensed practical nurses qualified for appointment to the board. The governor may remove any member from the board for neglect of duty of the board, incompetency or unprofessional or dishonorable conduct. Each person appointed to the board as a licensed professional nurse shall be a citizen of the United States and a resident of the state of Alabama and shall have these additional qualifications: be a graduate of a state-approved educational program for the preparation of practitioners of professional nursing; be a currently licensed professional nurse in Alabama; have a minimum of five years' successful nursing experience in an administrative, teaching, clinical capacity, or advanced practice and be actively engaged in professional nursing in

this state immediately preceding and during appointment. Each person appointed to the board as a licensed practical nurse shall be a citizen of the United States and a resident of the state of Alabama and shall have these additional qualifications: hold a diploma from an accredited high school or its equivalent; be a graduate of a state-approved vocational educational program for the preparation of practitioners of licensed practical nursing; be a currently licensed practical nurse in Alabama; have a minimum of five years' successful nursing experience and be actively engaged in licensed practical nursing in this state immediately preceding and during appointment. There shall be one member of the board who is a consumer and who is not a member of any of the health care professions. The consumer member shall be appointed by the Governor effective January 1, 1998, and shall serve for a term of four years. His or her successor shall be appointed in a like manner at the expiration of each term or upon a vacancy for the remainder of an unexpired term of office. The consumer member of the board shall have, presently or formerly, no direct financial interest in any health care facility, profession, agency, or insurer, or be or have been a health care worker. There shall be two advanced practice nurse positions to be filled effective January 1, 1998, in the same manner as all other professional nurse positions. One advanced practice nurse position shall be served for an initial five-year term and successors shall serve four-year terms. The remaining member appointed to an advance practice nurse position shall serve an initial four-year term and successors shall serve four-year terms.

(b) All members of the board shall enjoy immunity from individual civil liability while acting within the scope of their duties as board members.

(c) The board shall have the following powers and perform the following duties: It shall meet at least once a year and shall, at its organization meeting and at its annual meetings thereafter, elect from its members a president, a vice-president and a secretary. It may hold such other and additional meetings during any year as it deems necessary for the transaction of business. A majority of the board, including one officer, shall constitute a quorum at any meeting.

The board is authorized to:

(1) Adopt and, from time to time, revise such rules and regulations, not inconsistent with law, as may be necessary to carry out the provisions of this chapter.

Nothing in this chapter shall be construed as limiting the rights of affected parties to appeal decisions of the board with regard to rules and regulations promulgated hereunder;

(2) Prescribe standards and approve curricula for nursing educational programs preparing persons for licensure under this chapter;

(3) Provide for surveys and evaluations of such programs at such times as it may deem necessary;

(4) Approve such nursing educational programs as meet the requirements of this chapter and the board. Nothing in this chapter shall be construed to diminish the power of the state board of education or other constitutionally or legislatively established state agencies to govern the schools under their respective jurisdictions;

(5) Deny or withdraw approval from educational programs for failure to meet prescribed standards provided, that withdrawal of approval shall be effected only after a hearing in accordance with board rules and regulations;

(6) Examine, license and renew the licenses of duly qualified applicants and require employers to submit listings of personnel covered by this chapter to the board upon

request;

(7) Conduct investigations, hearings and proceedings concerning alleged violations of this section or of the rules and regulations of the board;

(8) Have the power to issue subpoenas, compel the attendance of witnesses and administer oaths to persons giving testimony at hearings;

(9) Cause the prosecution of all persons violating the provisions of this chapter and incur such necessary expenses therefor;

(10) Keep a public record of all of its proceedings;

(11) Keep a register of all licensees;

(12) Make an annual report to the governor;

(13) Appoint and employ a qualified person, not subject to the state merit system, who shall not be a member of the board, to serve as executive officer;

(14) Define the duties and fix the compensation for the executive officer;

(15) Employ such other persons as may be necessary to carry on the work of the board and provide for appropriate bonding of employees; regular employees of the board shall be employed subject to the state merit system in effect on January 1, 1966, or at the time of employment;

(16) Employ consultants, specialists, counsel or other specially qualified persons under contract or on a part-time basis to assist it in administering this chapter and without regard to the state merit system in effect on or after January 1, 1966, and to pay for the services of such persons;

(17) Accept gifts and grants upon terms and conditions imposed by it through official resolutions;

(18) Perform such other duties, not inconsistent with law, as required by this chapter to foster and improve nursing and the regulation thereof and the public health of this state;

(19) Expend funds of the board in exercising its powers and duties and in administering this chapter;

(20) Determine and collect reasonable fees;

(21) Adopt standards for registered and practical nursing practice and for continued competency of licensees; and

(22) Join organizations that develop and regulate the national nursing licensure examinations and promote the improvement of the legal standards of the practice of nursing for the protection of the public health, safety and welfare.

(d) The executive officer, employed by the board as provided for herein, shall be a citizen of the United States and a person of the highest integrity and shall possess these additional qualifications: be a licensed professional nurse in Alabama or eligible for licensure, be a graduate of a professional nursing program approved by the state in which the program was completed, hold a master's degree, and have had a varied experience in nursing, including at least five years' experience in an administrative or teaching capacity. The executive officer shall be bonded for the faithful performance of the duties of the office in the sum of not less than \$5,000.00, and the premium of the bond shall be paid out of the funds of the board.

(e) Each member of the board shall receive the same per diem and travel allowance as is paid by law to state employees for each day's attendance at the board meetings incurred in the discharge of his or her duties as a board member in addition to any daily compensation or allowance, if any, as may be provided by the board, in such amount as

may be determined by the board. Also, any member of the board engaged in duties under the direction of the board shall receive the said per diem and travel expenses and daily compensation or allowance authorized by the board. (Acts 1965, No. 867, p. 1615, § 3; Acts 1975, No. 427, p. 1024, § 1; Acts 1983, No. 83-642, p. 989, § 2; Acts 1989, No. 89-243, p. 349, § 3.)

Cited in *Stevens v. Blake*, 456 So. 2d 795 (Ala. Civ. App. 1984).

§ 34-21-3. Advisory councils.

The board shall appoint advisory councils as the board shall, from time to time, deem advisable to represent health disciplines and consumers. Each member of such advisory council appointed by the board shall receive \$30.00 per day for attendance at meetings of such advisory council or for attendance at the board meetings or otherwise engaged under the direction of the board, together with necessary travel and other expenses incurred in the discharge of such duties. (Acts 1965, No. 867, p. 1615, § 4; Acts 1975, No. 427, p. 1024, § 1.)

§ 34-21-4. Funds of board; transfer of duties, powers, etc., of board of nurses' examiners and registration to board of nursing.

All funds and revenues of whatever kind authorized or collected under the provisions of this chapter or the regulations of the board shall be collected by the board and shall be handled in accordance with existing regulations and accounting procedures of state departments and deposited in the board's trust fund in the state treasury. Disbursements and withdrawals of such funds by the board shall be made in accordance with existing regulations and accounting procedures of state departments. The board shall pay all of its expenses from its own funds, and no expenses shall be borne by the state of Alabama from general funds of the state. All the rights, duties, powers and authority now or hereafter vested by law in the board of nurses' examiners and registration are hereby transferred to and vested in the board of nursing, and all rights, powers, duties and authorities, whether clerical, executive, administrative, judicial or quasijudicial, now vested by law in the board of nurses' examiners and registration, shall be vested in the board of nursing hereby created and shall be exercised by it, together with any additional rights, powers and authorities herein given or created by this chapter. The jurisdiction, functions, funds, effects and personnel of the board of nurses' examiners and registration are hereby transferred to the board of nursing and covered with their current status. No unexpended funds of the board of nurses' examiners and registration or the board of nursing shall ever revert to the state of Alabama but shall remain the property of the board of nursing. (Acts 1965, No. 867, p. 1615, § 9.)

§ 34-21-5. Nursing educational programs.

An institution desiring to conduct a nursing educational program to prepare professional or practical nurses shall apply to the board and submit evidence that: It is prepared to

carry out the prescribed minimum standards to educate students in professional nursing or in practical nursing and that it is prepared to meet such other standards as shall be established by this chapter or by the board.

The board shall cause a survey to be made of the institution and its proposed educational program. If the survey reveals and the board is of the opinion that all requirements for an approved nursing educational program are met, it shall approve the institution.

The board, as often as deemed necessary, shall survey all nursing educational programs in the state. Should such survey reveal that the institution conducting such nursing educational program is not maintaining the standards required by the board, notice shall be given to the institution in writing, specifying deficiencies. Should an institution fail to correct the deficiencies to the satisfaction of the board within a reasonable length of time, the board shall disapprove the nursing educational program of such institution; provided, the institution may again qualify for approval if all requirements and standards are met. (Acts 1965, No. 867, p. 1615, § 10.)

§ 34-21-6. Exemptions.

This chapter does not prohibit: the furnishing of nursing assistance in an emergency; the practice of any legally qualified nurse of another state, who is employed by the United States government or any bureau, division or agency thereof, while in the discharge of his or her official duties; the practice of nursing by students enrolled in approved schools of nursing, as may be incidental to their course of study, nor shall it prohibit such students working as nursing aides; the practice of any currently licensed registered nurse or licensed practical nurse of another state whose employment responsibilities include transporting patients into, out of, or through this state or who is presenting educational programs or consultative services within this state not to exceed 30 days; persons, including nursing aides, orderlies and attendants, carrying out duties necessary for the support of nursing services, including those duties which involve supportive nursing services performed in hospitals and elsewhere under the direction of licensed physicians or dentists, or under the supervision of professional nurses licensed hereunder, nor gratuitous nursing of the sick by friends or members of the family, nor the care of the sick when done in accordance with the practice of religious principles or tenets of any well recognized church or denomination which relies upon prayer or spiritual means alone for healing. (Acts 1965, No. 867, p. 1615, § 12; Acts 1983, No. 83-642, p. 989, § 3.)

§ 34-21-7. Violations and penalties.

Any person or persons, firm, partnership, association or corporation, who shall sell or fraudulently obtain or furnish any nursing diploma, license or license renewal or aid or abet therein; or practices nursing as defined in this chapter under cover of any diploma, license or renewal license fraudulently obtained or issued under fraudulent misrepresentation or, after January 1, 1968, practices professional nursing as defined in this chapter or, after January 1, 1971, practices practical nursing as defined in this chapter, unless duly licensed to do so under the provisions hereof; or uses in connection with his or her name any designation implying or tending to imply that he or she is a licensed professional nurse and licensed to practice as a registered nurse, or a practical

nurse licensed to practice practical nursing as a licensed practical nurse, unless duly licensed to practice under the provisions of this chapter; or after January 1, 1968, practices professional nursing or, after January 1, 1971, practices practical nursing during the time his or her license issued under the provisions of this chapter shall be suspended, revoked or has expired; or conducts a nursing education program for the preparation of professional or practical nurses, purporting eligibility of its graduates for license hereunder, unless the program has been approved by the board; or knowingly conceals information relating to violations of this chapter; or otherwise violates any of the provisions of this chapter, shall be guilty of a Class A misdemeanor and upon conviction, shall be punished in accordance with the laws of the state of Alabama. (Acts 1965, No. 867, p. 1615, § 13; Acts 1983, No. 83-642, p. 989, § 4.)

§ 34-21-8. Payment of license and fees by personal check.

Notwithstanding any other provision of law, the Board of Nursing may accept personal checks from licensees for the payment of license and other fees required by the board. The board may also promulgate the necessary rules and regulations to penalize any licensee who issues a worthless check to the board. (Act 2001-239, p. 281, §5.)